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REPORT
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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FLEET MODERNIZATION ACT OF 1989

OCTOBER 30, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 897]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 897) authorizing the National Oceanic and Atmospheric Administration to modernize and expand its fleet of ocean research vessels, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Fleet Modernization Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the vessels of the National Oceanic and Atmospheric Administration (hereafter in this Act referred to as "NOAA") support important fisheries, oceanographic, mapping and surveying, global climate assessment, and meteorological programs and projects;

(2) the NOAA fleet represents approximately one-third of the total Federal ocean research fleet;

(3) the NOAA fleet is rapidly approaching obsolescence since the average age of the vessels in the NOAA fleet is 24 years, which is nearly the average industry-accepted service life for vessels;

(4) a recent engineering study of the NOAA fleet, based solely on its current usage, has concluded that 4 vessels of the fleet need to be replaced and the remaining vessels need to be modernized;

(5) NOAA has new responsibilities for surveying and mapping the Exclusive Economic Zone of the United States and its offshore territories and possessions

for monitoring global climate change, and for fisheries research, that require the addition of 7 new vessels to the fleet;

(6) NOAA's overall responsibilities require a 30-vessel fleet;

(7) recent advances in technology have led to the development of modern scientific equipment for research vessels which would enable NOAA to perform its functions more efficiently; and

(8) unless NOAA implements a modernization and replacement program at this time, NOAA's ability to carry out its assigned missions will be significantly impaired, and its role as the lead civilian ocean agency will be threater ed.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to direct NOAA to develop and implement a fleet modernization and expansion program over a 10-year period;

(2) to authorize NOAA to acquire scientific instrumentation for its fleet;

(3) to authorize NOAA to increase its personnel to the extent necessary to develop specifications for, and provide for the construction, lease, or other acquisition of, the improved and expanded NOAA fleet;

(4) to authorize NOAA to enter into multiyear contracts for the construction, lease, or other acquisition of vessels;

(5) to direct NOAA to modernize, construct, and convert vessels under this Act in private shipyards in the United States; and

(6) to authorize appropriations necessary to carry out this Act for 3 years.

SEC. 4. FLEET MODERNIZATION AND EXPANSION.

(a) IN GENERAL.—NOAA shall develop a fleet modernization and exapansion program in fiscal year 1990, and implement that program over a 10-year period beginning in fiscal year 1991. Such program shall include—

(1) the modernization or replacement of 23 vessels;

(2) the construction, lease or other acquisition of 7 new vessels; and

(3) the acquisition of modern scientific instrumentation for the NOAA fleet, including acoustic systems, data transmission positioning and communication system, physical, chemical, and meteorological oceanographic systems, and data acquisition and processing systems.

(b) SPECIFIC SCHEDULE.—The Under Secretary shall, in fiscal year 1991—

(A) modernize and extend the service life of one Class I vessel to be used for oceanographic research;

(B) develop specifications for a coastal class vessel to be used for fisheries research; and

(C) develop specifications for an inshore class vessel to be used for hydrographic survey and research.

(2) The Under Secretary shall, in fiscal year 1992—

(A) construct or otherwise acquire one coastal class vessel to be used for fisheries research;

(B) construct or otherwise acquire 2 inshore class vessels to be used for hydrographic survey and research; and

(C) develop specifications for an offshore class vessel to be used for fisheries research.

(3) The Under Secretary shall, in fiscal year 1993—

(A) consturct or otherwise acquire one coastal class vessel to be used for fisheries research;

(B) constuct or otherwise acquire one offshore class vessel to be used for fisheries research; and

(C) develop specifications for an offshore class vessel to be used for oceanographic research.

(4) The Under Secretary shall continue to implement the fleet modernization and expansion program developed pursuant to subsection (a) in fiscal years after fiscal year 1993.

SEC. 5. PERSONNEL.

NOAA is authorized to fill 10 additional personnel positions to develop specifications for and provide for the construction, lease, or other acquisition of the modernized and expanded NOAA fleet.

SEC. 6. REPORT.

Within 3 months after the date of the enactment of this act, the Under Secretary shall submit to the Congress a detailed plan for the implementation of this Act, including a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of vessels, acquisitions of scientific instruments,

hiring of additional personnel, and annual funding requirements for carrying out the fleet modernization and expansion program pursuant to section 4.

SEC. 7. CONTRACT AUTHORITY.

The Act of August 6, 1947 (33 U.S.C. 883a-i), is amended—

(1) by redesignating sections 9 and 10 as sections 10 and 11, respectively; and

(2) by inserting after section 8 the following:

"SEC. 9. (a)(1) Notwithstanding the provisions of section 1341 of title 31, United States Code, and section 10 of the act of March 2, 1861 (41 U.S.C. 11), the Under Secretary may enter into multiyear contracts and lease agreements described in paragraph (2) if the Under Secretary finds—

"(A) that there is a reasonable expectation that throughout the contemplated contract or lease agreement period the Under Secretary will request funding from the Congress for the contract or lease agreement at the level required to avoid contract or lease agreement cancellation; and

"(B) that the use of such contract or lease agreement will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

"(2) The contracts and lease agreements referred to in paragraph (1) are the following:

"(A) Multiyear contracts and leases for the construction or purchase of property (including vessels and equipment) and services necessary to carry out this Act.

"(B) Multiyear contracts for the lease of property (except vessels), including equipment, and services necessary to carry out this Act.

"(b) The Under Secretary may make appropriate provision in each contract or lease agreement entered into under this section that in the event of termination of the contract or lease agreement before the expiration of the stated term, the United States shall be liable for a specified amount to the contractor or lease agreement party, which shall be a valid obligation of the United States. In the event of any such termination, the amount may be paid from—

"(1) amounts originally appropriated for the performance of the contract or lease agreement;

"(2) amounts then available from appropriations for procurement of the type of acquisition concerned, and not otherwise obligated; or

"(3) amounts specifically appropriated for such payment.

"(c) Except in case of emergency, all modernization, construction, conversion, and repair work performed after the date of the enactment of this section on vessels owned, leased, chartered, or operated by the National Oceanic and Atmospheric Administration shall be carried out in private shipyards in the United States, and no vessel shall be purchased, leased, chartered, or otherwise acquired by the National Oceanic and Atmospheric Administration after that date unless the vessel was constructed in those shipyards, as follows:

"(1) All major components of the hull and superstructure of the vessel shall be fabricated in the United States.

"(2) The vessel shall be assembled entirely in the United States.

"(3) At least 50 percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure of the vessel, except for scientific equipment which cannot reasonably be purchased in the United States, shall be attributable to items procured in the United States.

"(d) In this section—

"(1) the term 'lease' includes a lease with an option to purchase and the purchase of a vessel pursuant to that option;

"(2) the term 'multiyear' means more than one year, but not more than 10 years; and

"(3) the term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for carrying out this Act $29,000,000 for fiscal year 1991, $29,000,000 for fiscal year 1992, and $34,000,000 for fiscal year 1993. Any amounts authorized but not appropriated for a specific fiscal year shall be available for appropriation in subsequent fiscal years.

SEC. 9. CONSIDERATION OF GOVERNMENT-ACQUIRED VESSELS.

Before acquiring a vessel for use by the National Oceanic and Atmospheric Administration, the Under Secretary shall review the inventory of vessels acquired by

the United States Government as a result of a default under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271-1279c), to determine whether any of those vessels are suitable for use by the National Oceanic and Atmospheric Administration.

SEC. 10. CLASSIFICATION STANDARDS AND NEW NOAA VESSELS.

(a) APPLICATION TO NEW VESSELS.—Each new vessel constructed for NOAA shall be constructed in accordance with the classification standards issued by the American Bureau of Shipping pursuant to section 3316(b) of title 46, United States Code, that apply to that type of vessel.

(b) SURVEYS OF NEW VESSELS.—The Under Secretary shall request the American Bureau of Shipping—

(1) to periodically conduct surveys of new vessels constructed for NOAA to determine if those vessels are in compliance with applicable classification standards referred to in subsection (a); and

(2) to provide the results of those surveys and any related recommendations to NOAA and, upon request, to the Congress and the public.

(c) NEW VESSEL DEFINED.—In this section the term "new vessel" means a vessel constructed under a contract entered into after the date of the enactment of this Act.

SEC. 11. DEFINITIONS.

In this Act—

(1) the term "Class I vessel" means a vessel with respect to which the sum of its shaft horsepower and gross tonnage is greater than 5,501 but does not exceed 9,000;

(2) the term "coastal class vessel" means a vessel approximately 175 feet overall in length capable of operating in coastal waters;

(3) the term "gross tonnage" means the tonnage of a vessel under chapter 143 of title 46, United States Code;

(4) the term "inshore class vessel" means a vessel approximately 100 feet overall in length capable of operating in nearshore waters;

(5) the term "lease" includes a lease with an option to purchase and the purchase of a vessel pursuant to such option.

(6) the term "multiyear" means more than one year, but not more than 10 years;

(7) the term "offshore class vessel" means a vessel at least 200 feet overall in length capable of operating in the open ocean;

(8) the term "shaft horsepower" means the total horsepower produced by a vessel's main propulsion engines; and

(9) the term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

PURPOSE OF THE BILL

The purpose of this legislation is to direct the National Oceanic and Atmospheric Administration of the Department of Commerce to develop and implement over a ten-year period a fleet modernization and expansion program, and to direct NOAA to modernize and repair its vessels in private shipyards in the United States.

BACKGROUND AND NEED FOR LEGISLATION

NOAA maintains a fleet of 23 oceanographic research vessels. The history of the NOAA fleet dates back to 1807 when President Thomas Jefferson commissioned the first survey of the United States coastline to be performed by the predecessor to the Coast and Geodetic Survey. The modern NOAA fleet dates to 1970 when Reorganization Plan No. 4 created NOAA by bringing together in one civilian oceanic agency the Coast and Geodetic Survey, the Bureau of Commercial Fisheries, and the Weather Service.

The current NOAA fleet consists of 23 vessels ranging in length from 86 to 303 feet. See Figure 1 for vessel identification, home ports, and missions. The fleet supports NOAA's programs in nauti-

cal charting, bathymetric mapping, fisheries research, resource assessment, marine environmental baseline assessment, coastal ocean circulation, and oceanographic and atmospheric research. Some of the specific programs supported by the fleet are surveys of porpoises taken incidental to purse seine tuna fishery operations; tropical oceans and global atmosphere (TOGA) research; research on sea ice processes in Alaskan waters; outer Continental Shelf environmental assessments; mapping of the U.S. Exclusive Economic Zone (EEZ); and hydrographic surveys in support of updating nautical charts.

The NOAA Fleet

CLASS	NOAA SHIP	HOME PORT	GENERAL DESCRIPTION						MISSION						
			Length (feet)	Displacement (tons)	Cruising Speed (knots)	Endurance (days)	Survey Launches	Scientific Accommodation	Bow Thruster	Helicopter Platform	Laboratory	Charting & Mapping	Environmental Assessment	Fisheries Research	Oceanographic & Atmospheric Research
I	Oceanographer	Seattle, WA	303	4,033	11	31		24	●		●				●
	Discoverer	Seattle, WA	303	4,033	11	31		24	●		●	●			●
	Researcher	Miami, FL	278	2,963	13	31		16	●	●	●				●
	Surveyor	Seattle, WA	292	3,440	12	28		16	●	●	●	●			●
II	Fairweather	Seattle, WA	231	1,800	11	22	4	4	●		●	●			
	Rainier	Seattle, WA	231	1,800	11	22	4	4	●		●	●			
	Mt. Mitchell	Norfolk, VA	231	1,800	11	22	4	4	●		●	●			
	Miller Freeman	Seattle, WA	215	1,920	12	31		11	●		●		●	●	
III	Peirce	Norfolk, VA	163	907	12	20	2	2				●			
	Whiting	Norfolk, VA	163	907	12	20	2	2				●			
	McArthur	Seattle, WA	175	995	10	28		6			●		●	●	●
	Davidson	Seattle, WA	175	995	10	23	2	2			●	●			
	Oregon II	Pascagoula, MS	170	952	12	31		15			●			●	
	Albatross IV	Woods Hole, MA	187	1,089	10	16		15	●		●			●	
IV	Townsend Cromwell	Honolulu, HI	163	652	10	30		9			●			●	
	David Starr Jordan	San Diego, CA	171	993	10	31		13	●		●			●	
	Delaware II	Woods Hole, MA	155	758	11	24		9			●			●	
	Chapman	Pascagoula, MS	127	520	9	14		6	●		●			●	
	Ferrel	Norfolk, VA	133	360	8	9		6	●		●		●		
V	John N. Cobb	Seattle, WA	93	250	9	13		4			●			●	
	Rude	Norfolk, VA	90	220	9	3		0				●			
	Heck	Norfolk, VA	90	220	9	3		0				●			
VI	Murre II	Juneau, AK	86	295	9	8		5			●			●	

The majority of NOAA's vessels were built in the 1960s; the last new NOAA ship, the *Chapman,* was constructed in 1980. Concerned with the age of its vessels, in 1987, NOAA contracted with Advanced Technology, Inc., of McLean, Virginia, (Ad Tech) to study the condition of the fleet and make recommendations on a future course of action. Ad Tech engineers visited and inspected virtually every vessel in the NOAA fleet before issuing its final report in January, 1988. The major conclusions and recommendations of the Ad Tech study are as follows:

(1) The general condition of the NOAA fleet overall is superior to that of commercial ships of the same age.

(2) However, all of the vessels in the NOAA fleet are facing "block obsolescence" due to their age. Ships have a normal life expectancy of 20 to 25 years.

(3) Unless NOAA immediately undertakes a major modernization and life extension program for the fleet, all of its vessels will need to be replaced, at considerably greater cost.

(4) Four of the NOAA vessels, the *Albatross IV,* the *Townsend Cromwell,* the *John N. Cobb,* and the *Surveyor,* should be replaced instead of being modernized.

Ad Tech also put together a comprehensive 10-year plan for NOAA to use to revitalize and replace its aging fleet. To date, NOAA has not officially responded to the Ad Tech recommendations, nor has the agency developed its own fleet replacement plan.

In addition to the Ad Tech report, two other studies have recently been conducted of the NOAA fleet—one that is almost complete by the General Accounting Office (GAO) and one by the Marine Board of the National Academy of Sciences.

The GAO study had been requested by Congressman Mike Lowry, the previous Chairman of the Oceanography Subcommittee of the Merchant Marine and Fisheries Committee. In testimony before the Subcommittee on April 27, 1989, a representative of the GAO summarized their findings to date, while explaining their methodology for surveying the adequacy of NOAA's current fleet. GAO surveyed 41 scientists from major NOAA program organizations (the National Marine Fisheries Service, the Office of Oceanic and Atmospheric Research, and the National Ocean Service) that rely on ship support to carry out their research. These scientists were asked to rate the adequacy of the fleet support that they received during fiscal years 1986 through 1988. Of the 41 scientists, 28 said NOAA's fleet support was less than adequate for one or more of their research programs. The scientists cited two main areas where fleet support did not meet their needs: (1) not enough ship time to carry out their research; and (2) problems with the vessels' equipment and capabilities.

Eighteen of the 28 scientists interviewed said they did not receive a sufficient number of days-at-sea to conduct their research, which they attributed to inadequate research funding, different mission priorities, the lack of availability of ships with required capabilities, and the lack of operational funding to repair and maintain NOAA's ships. Twenty-six scientists said that one or more characteristics of the vessels or equipment hindered their research. They cited such examples as (1) problems with ship winches, (2) the inability of some ships to remain at sea for extended periods of

time, (3) inadequate deck working areas, and (4) inadequate vessels laboratories. For example, one scientist lost about $75,000 worth of equipment at sea because a winch malfunctioned. The scientists also identified problems with the ships' acoustic systems, navigation, positioning, and communication systems. They told GAO that they need additional as well as more modern computers, improved satellite communications to transmit data, and better positioning systems to improve the precision of their research.

In 1988, the Marine Board's Committee on Alternative Strategies for Obtaining Ship Services released its report on the NOAA fleet. The Marine Board warned that the nation's needs for oceanographic ships are expanding, while expenditures to modernize and renew the NOAA oceanographic fleet are not keeping pace. The Marine Board concluded that the NOAA fleet represents a significant and unique part of the national oceanographic fleet capability and its future should be considered in the context of total national needs for oceanographic ships. The Marine Board noted that the NOAA fleet will play an important role in the nation's expanding need to perform marine resource assessment and oceanographic research, particularly with respect to continued exploration of the EEZ, and recommended that policy decisions concerning the future of the NOAA fleet ensure that the capability to support the national interest at sea be strengthened, not diminished. The Marine Board recommended that NOAA conduct a comprehensive study to define the characteristics of an ideal fleet to meet its present and future needs. More specifically, the Marine Board recommended that NOAA investigate the possibility of entering into long-term charters for some of its ship support services, for example, bathymetric surveys and fisheries research.

Even in the face of this overwhelming information on the condition of the fleet and its equipment, the Administration still denies that NOAA needs to develop or implement a fleet modernization and replacement plan. Instead, the last eight NOAA budgets have recommended that ships be laid up to pay for routine ship maintenace and repairs. The FY 1990 budget, for example, recommended that six ships be laid up; 66 staff positions be reduced; and days-at-sea be reduced on seven of the remaining active vessels. But the amounts saved from the proposed lay-ups do not equal the investment needed to rehabilitate or replace the aging fleet. Furthermore, the House bill making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies (H.R. 2991) has rejected the proposed lay-ups as a solution to the NOAA budget problem.

In contrast with NOAA, both the Navy and the National Science Foundation (NSF) have developed and are implementing plans to replace their oceanographic research vessels.

The majority of the Navy's oceanographic ships also were designed and built during the 1960's. Recognizing their problem with block obsolescence, in 1984, the Secretary of the Navy and the Chief of Naval Operations directed that a ship replacement and acquisition plan be developed. That plan is now being executed and is reflected annually in the Navy's ship construction program. Thirteen new ships will be in service by 1996, resulting in a 21-ship Navy oceanographic fleet.

Similarly, in June, 1986, a plan was published for improved capability of the university oceanographic research fleet, or UNOLS. The plan outlined a schedule to replace the entire 20-ship UNOLS fleet over a 30-year period. The replacement plan is currently being implemented under NSF and Navy auspices.

Since NOAA built its last new vessel, new ship technology has been developed that could enable NOAA to save money on ship replacements. One example of innovative ship technology is the SWATH design. SWATH stands for Small Waterplane Area Twin Hull. The twin hull configuration is able to maintain platform stability and speed in rough seas. To investigate the SWATH design, NOAA has recently entered into an agreement with the Canadian Hydrographic Survey to jointly lease a new SWATH ocean vessel for six months and has also agreed to lease the Navy's SWATH ship, the *Kaimalino,* for operational support of NOAA programs in Hawaiian waters.

Another possible source of replacement vessels for NOAA is vessels that have been acquired by the Federal Government as a result of defaults on loans and guarantees issued under title XI of the Merchant Marine Act of 1936. The Maritime Administration (MARAD) has a sizeable number of vessels in its inventory that it is negotiating to sell, at prices less than the cost of a new ship, to both private and government agencies. NOAA's own National Marine Fisheries Service also acquires fishing vessels in default under the programs which could be used for fisheries research.

The Committee is also concerned that work for U.S. shipyards has been sharply declining. In the industry as a whole, between 1982 and 1986, approximately 52,500 jobs were lost; 76 shipyards and ship repair facilities were closed; and 22 building ways, 17 floating drydocks, 21 graving docks, and numerous plant facilities were lost. In August, 1987, at least 15 of the surviving firms were operating under chapter 11 bankruptcy protection.

A major factor contributing to the industry's decline has been the virtual cessation of commercial ship construction in the United States. In 1980, 69 merchant ships were under construction in 15 American shipyards; today, no merchant ships are under construction in this country. The last seagoing commercial vessel from an American shipyard, a container vessel Bay Shipbuilding launched for Sea-land Corporation, was delivered last year.

The lack of orders for commercial ships is directly attributable to a worldwide surplus of shipyards and merchant ships, the United States' inability to compete in terms of price with most foreign shipyards, little coastal or inland maritime work, the collapse of the offshore energy industry, and zero budgeting for the Construction Differential Subsidy Program.

With the demise of commerical ship construction in the U.S., Naval ship construction and repair are virtually all that remain for the industry. The Navy accounts for 90 percent of the workload in private shipyards today. New construction work is highly concentrated in fewer than a dozen shipyards, with most others in the industry operating at only a small percentage of plant capacity and often losing money in the process. Only the few shipyards with long-term Navy construction programs or repair yards located

within major Navy home port areas appear to have a foreseeable steady workload.

COMMITTEE ACTION

H.R. 897 was introduced on February 7, 1989, by Chairman Jones, Mr. Davis, Mr. Brooks, Mr. Fascell, Mr. Studds, Mrs. Boggs, Mr. Hughes, Mr. Lent, Mr. Yatron, Mr. Akaka, Mr. Hutto, Mr. Tauzin, Mr. Bennett, Ms. Schneider, Mrs. Boxer, Mr. Bateman, Mr. Manton, Mr. Pickett, Mr. Clement, Mrs. Saiki, and Mr. Pallone. Additional co-sponsors are Mr. Fields, Mr. Miller, Mr. Torricelli, and Mr. Brennan. The bill was referred to the Committee on Merchant Marine and Fisheries.

On April 27, 1989, the Subcommittee on Oceanography and Great Lakes held a hearing on H.R. 897. The Subcommittee heard from William D. Barbee, Executive Secretary, University-National Oceanographic Laboratory System, University of Washington; Captain Gilbert L. Kraine, USCG (Ret.), Advanced Technology, Inc.; Rear Admiral Francis D. Moran, Director, Office of NOAA Corps Operations, NOAA; John M. Ols, Jr., Director, Housing and Community Development Issues, Resources, Community and Economic Development Division, GAO; Rear Admiral Richard F. Pittinger, Oceanographer of the Navy; and Rear Admiral J. Edward Snyder, USN (Ret.), Committee on Alternative Strategies for Obtaining Ship Services, National Research Council.

On July 19, 1989, the Subcommittee met to mark up H.R. 897. Chairman Walter Jones offered a substitute to H.R. 897 which substantially reduced the authorization levels from the bill as introduced and correspondingly stretched out the construction schedule for the first three years of the 10-year modernization program. On behalf of Mr. Davis of Michigan, Mr. Shumway offered an amendment to require that, prior to acquiring a new ship, NOAA review the inventory of available ships acquired by the Government as a result of defaults under title XI of the Merchant Marine Act. The amendment was agreed to by voice vote and the substitute, as amended, was reported to the full Committee.

On September 26, 1989, the full Merchant Marine and Fisheries Committee met to mark up H.R. 897. Chairman Jones offered an amendment requiring that all new NOAA ships be built in accordance with classification standards issued by the American Bureau of Hiapping (ABS) and that NOAA request the ABS to conduct periodic surveys of its new vessels to determine whether they continue to comply with ABS standards. The Chairman's amendment was agree to by voice vote. Mr. Shumway of California offered an amendment to delay the authorization of appropriations by one year, so that the construction schedule would not begin until FY 1991. The amendment reflects the fact that the FY 1990 budget is virtually complete and does not contain the funds to implement this bill.

There being no further amendments, the Committee approved the Chairman's motion that the bill be amended by striking all after the enacting clause and inserting the text of the bill with the amendments approved by the Committee.

By voice vote, the Committee ordered the bill, as amended, reported favorably to the House.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section provides the short title of the bill, the National Oceanic and Atmospheric Administration Fleet Modernization Act of 1989.

SECTION 2

Section 2 contains Congressional findings: the NOAA fleet is rapidly approaching obsolescence; a recent engineering study has concluded that four of the NOAA vessels need to be replaced and the remaining vessels need to be modernized; NOAA has new responsibilities for surveying and mapping the EEZ and offshore territories and possessions and for monitoring global climate change; and recent advances in technology have led to the development of modern scientific equipment that would enhance NOAA's fleet performance.

SECTION 3

Section 3 outlines the purposes of this legislation: to direct NOAA to develop and implement a fleet modernization and expansion program over a 10-year period; to direct NOAA to acquire modern scientific instruments for the fleet; to authorize NOAA to obtain needed personnel to acquire the improved and expanded fleet; to authorize NOAA to enter into multiyear contracts; to direct NOAA to modernize and repair new vessels in private shipyards in the United States; and to authorize necessary appropriations for the first three years of the modernization program.

SECTION 4

Section 4 provides the authority for NOAA to develop and implement a fleet modernization and expansion program. Subsection (a) provides the general outline of the modernization and expansion program. NOAA is directed to develop this program in FY 1990 and implement the program over a 10-year period, beginning in FY 1991. The elements of the program include: (1) the modernization or replacement of its current fleet of 23 vessels; (2) the construction, lease, or other acquisition of 7 new vessels; and (3) the acquisition of modern scientific instruments for the fleet. The named instruments are intended to be representative only.

Subsection (b) authorizes a specific schedule for NOAA to follow in the first three years of the 10-year program. The schedule is based on recommendations in the Ad Tech study and the Committee's understanding of the agency's priorities. The specific schedule does not begin until FY 1991, providing the agency time to develop the overall program and to obtain necessary appropriations. In FY 1991, NOAA is required to modernize one Class I oceanographic research vessel, and develop specifications for a coastal fisheries research vessel and an inshore hydrographic survey and research vessel.

In FY 1992, NOAA must construct or otherwise acquire one coastal fisheries research vessel and two inshore hydrographic survey and research vessels, and must develop specifications for a new offshore fisheries research vessel.

In FY 1993, NOAA must construct or otherwise acquire one coastal fisheries research vessel and one offshore fisheries research vessel, and develop specifications for a new offshore oceanographic research vessel.

NOAA shall continue to implement the fleet modernization and expansion program in subsequent years.

SECTION 5

Section 5 provides NOAA the authority to hire ten additional persons to carry out the fleet modernization and expansion plan. With these additional slots, NOAA should be able to develop specifications for and supervise the construction and repair work. This provision would not prevent NOAA from using MARAD or another agency to actually carry out the contracting work.

SECTION 6

Section 6 requires the Under Secretary to submit to Congress within 3 months from enactment of the NOAA Fleet Modernization Act a detailed plan for NOAA to implement the Act. The plan should contain a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the fleet modernization and expansion program. Given the available information from the Ad Tech study, issued nearly two years ago, the Committee does not believe that the three-month deadline will be difficult to meet.

SECTION 7

Section 7 amends the Act of August 6, 1947 (33 U.S.C. 883a–i), commonly called the Coast and Geodetic Survey Act, to provide NOAA the needed contract authority to implement the fleet modernization and expansion program, and to direct that the work be performed in private shipyards in the United States.

The first amendment authorizes the Under Secretary to enter into multiyear contracts and lease agreements, provided he or she finds that there is a reasonable expectation that sufficient funding will be requested throughout the contemplated contract period and that using a multi-year agreement will be in the best interest of the United States. With this authority, the Under Secretary may enter into multiyear contracts and leases for the construction or purchase of necessary vessels, services and equipment. This authority responds to recommendations made by the Marine Board and GAO that multi-year contracting authority is needed by NOAA to enter into new, long-term purchase and/or lease-purchase arrangements. The Under Secretary may not use this authority until appropriations are available.

In each agreement, the Under Secretary may provide that in the event of termination of the contract or lease before its expiration, the United States shall be liable for a cancellation fee. The amount

of the cancellation fee may be paid from amounts originally appropriated for the performance of the contract, amounts available for similar procurements and not otherwise obligated, or amounts specifically appropriated for such payment.

The second amendment to the Coast and Geodetic Survey Act directs NOAA to carry out all vessel modernization, construction, and repair work performed after the date of enactment of the NOAA Fleet Modernization Act in private shipyards in the United States. This restriction applies to vessels constructed for NOAA as well as those leased or chartered from the private sector that are built after the date of enactment. Specifically, the restriction requires that all major components of the hull and superstructure of the vessel be fabricated in the United States; that the vessel be assembled entirely in the United States; and that at least 50 percent of the cost of all machinery and components which are not an integral part of the hull or superstructure be attributable to items procured in the United States, with the exception of scientific equipment which cannot reasonably be purchased in the United States.

SECTION 8

Section 8 authorizes appropriations for carrying out the NOAA Fleet Modernization Act. The bill authorizes $20 million for FY 1991, $29 million for FY 1992, and $34 million for FY 1993. The Committee hopes that the Administration will request the needed appropriations in its FY 1991 request, now being considered within the Administration.

SECTION 9

Section 9 directs the Under Secretary, prior to obtaining a new NOAA vessel, to review the inventory of vessels acquired by the Government as a result of defaults under the title XI loan program to determine whether any of these vessels are suitable for NOAA's use. The Committee only intends that NOAA conduct a survey of available vessels, but is not requiring their use or purchase by NOAA.

SECTION 10

Section 10 requires that each new vessel constructed for NOAA after the date of enactment be constructed in accordance with classification standards issued by the American Bureau of Shipping (ABS) pursuant to section 3316(b) of title 46, U.S.C. Classification is a process for determining whether a particular vessel has the structural and mechanical fitness required for its intended use. ABS has extensive experience in classifying and surveying both private and Government vessels. This experience extends to SWATH technology, too.

Subsection (b) directs the Under Secretary to request ABS to periodically conduct surveys of new NOAA vessels to determine if they are still in compliance with applicable classification standards and to provide the results of those surveys to NOAA and, upon request, to the Congress and the public. ABS conducts periodic surveys of commercial vessels in class and is equipped to provide this service to NOAA. The surveys will provide NOAA and Congress

useful information on the condition of the NOAA fleet in future years. This type of outside survey information has been sorely lacking in the past and has made it more difficult to evaluate the condition of the fleet and support appropriations for needed rehabilitation work. The Committee does not intend by this provision that NOAA must maintain its ships "in class," but simply that this information be made available to NOAA and the public.

SECTION 11

Section 11 contains the definitions section of the bill. The definitions are self-explanatory and cover the terms: "Class I vessel," "coastal class vessel," "gross tonnage," "inshore class vessel," "lease," "multiyear," "offshore class vessel," "shaft horsepower," and "Under Secretary".

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 897 will have no significant inflationary impact upon prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires a statement of the estimated cost to the United States which would be incurred in carrying out H.R. 897. However, under paragraph (d) of Clause 7, the provisions of (a) do not apply when the Committee has received a timely report from the Congressional Budget Office.

STATEMENT REQUIRED BY SECTION 308(a)(1) OF THE CONGRESSIONAL BUDGET ACT OF 1974

With respect to the requirements of clause (2)(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 897 does not contain any new budget authority or tax exemptions for Fiscal Year 1990 and no new budget authority has been provided in section 302(b) allocations for the FY 1990 Budget Resolution.

According to the cost estimate submitted by the Congressional Budget Office, H.R. 897 provides new budget authority for Fiscal Year 1991 and following years based on the provision in the bill that grants NOAA multiyear contract authority. This authority was provided the agency to give it the necessary flexibility to enter into long-term charters or leases and, in part, was based on a recommendation made last year by the National Academy of Sciences' Marine Board that NOAA should be provided multiyear contract authority to enter into long-term leases of private vessels. With this authority, NOAA can enter into contracts to lease vessels from the private sector that are built to NOAA specifications and be able to provide level funding for the term of the lease.

The remaining requirements of section 308(a)(1) of the Budget Act are provided in the cost estimate issued to the Committee by

the Director of the Congressional Budget Office and included in this report.

Compliance With House Rule XI

1. With respect to the requirements of clause (2)(l)(3)(A) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations on the subject of H.R. 897 have been made by the Committee during the 101st Congress.

2. With respect to the requirements of clause (2)(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report from the Committee on Government Operations on the subject of H.R. 897.

3. With respect to the requirements of clause (2)(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following estimate of the cost of H.R. 897 from the Director of the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 11, 1989.

Hon. Walter B. Jones,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 897, the National Oceanic and Atmospheric Administration Fleet Modernization Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 897.

2. Bill title: National Oceanic and Atmospheric Administration Fleet Modernization Act of 1989.

3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, September 27, 1989.

4. Bill purpose: H.R. 897 would authorize the National Oceanic and Atmospheric Administration (NOAA) to implement a 10-year program beginning in 1991 to modernize the NOAA fleet of research vessels. The bill would direct NOAA to modernize or replace 23 existing vessels, acquire seven new vessels, and acquire modern scientific equipment for the fleet. The bill would require that NOAA follow a specific schedule for the first three years of the program; during this time, NOAA would be required to modernize one existing vessel, acquire five new vessels, and begin developing specifications for one other vessels. For these years, the bill would authorize total appropriations of $83 million–$20 million for fiscal year 1991, $29 million for 1992, and $34 million for 1993.

Under section 7 of H.R. 897, NOAA would have significant latitude in selecting a method of financing for this program. First, this

section would effectively waive the provisions of the Anti-Deficiency Act (31 U.S.C. 1341), which would otherwise require the appropriation in advance of sufficient funds to cover the federal government's maximum current liability. Second, section 7 would authorize NOAA to enter into multiyear contracts to carry out this program. Taken together, these provisions would provide NOAA with indefinite contract authority, which is counted as budget authority. This authority would enable NOAA to enter into multiyear contracts, including lease/purchase arrangements, without having funds provided in advance through appropriations. As part of these contracting arrangements, NOAA would be authorized to provide for the payment of contingent termination liability should any of these contracts be terminated by the government before completion.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Direct spending (contract authority):					
Estimated budget authority		20	20	34	40
Estimated outlays		8	20	29	36

The costs of this bill would be in budget function 300.

Basis of estimate: The estimated budget authority shown in the table above is the amount required to fully fund the contracts authorized by the bill when those contracts are signed. CBO estimates that the authorization levels provided by H.R. 897 would be sufficient to cover contract obligations for fiscal years 1991 to 1993. These amounts are shown as estimated budget authority for those years. The estimated budget authority for fiscal year 1994 is based on information provided by NOAA. The estimated outlays are based on historical spending patterns for similar acquisition and construction programs.

The estimated annual costs of the program after fiscal year 1993 are very uncertain. First, estimates of the total (10-year) cost of the fleet modernization program range between $300 million and $500 million (in 1989 dollars), depending on whether existing vessels are refurbished or replaced. Second, the contracting options available to NOAA could greatly effect the timing of the costs.

Should NOAA elect to use standard procurement contracts for these projects, costs for fiscal years 1994 to 2000 would be roughly $40 million to $60 million annually. H.R. 897 would provide NOAA with other contracting options for implementing the modernization program. The most likely of these options would be a lease/purchase, under which the vessel would be privately financed and owned, and then leased to the government with the government obtaining ownership after expiration of the lease. In general, leasing would defer the need for government funds, because the lease payments could be spread over several years. In the long run, however, these arrangements are more expensive to the government than use of appropriated funds because the private investment must be

financed at interest rates higher than the government's cost of borrowing.

Contingent Termination liability: If NOAA enters into any multiyear contracts and if, as is likely, they specify termination payments, the agency could not withdraw from any of them without providing for the payment of contingent termination liability. This liability would secure the contractor's investment should the government choose to terminate any contract for its convenience. The amount of contingent liability incurred by the government at any time would be amount required to cover any contractual commitments outstanding at that time.

Under H.R. 897, NOAA would be authorized to incur this contingent liability without having funding for this liability specifically provided in advance through appropriations. Instead the bill would authorize the agency to use an available unobligated balances for this payment. Nevertheless, CBO does not expect that NOAA would terminate any of the affected contracts.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Michael Sieverts.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

Departmental Reports

The Committee has not received any Departmental Reports on H.R. 897.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

33 U.S.C. 883*i*

(a)(1) Notwithstanding the provisions of section 1341 of title 31, United States Code, and section 10 of the Act of March 2, 1861 (41 U.S.C. 11), the Under Secretary may enter into multiyear contracts and lease agreements described in paragraph (2) if the Under Secretary finds—

(A) that there is a reasonable expectation that throughout the contemplated contract or lease agreement period the Under Secretary will request funding from the Congress for the contract or lease agreement at the level required to avoid contract or lease agreement cancellation; and

(B) that the use of such contract or lease agreement will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(2) The contracts and lease agreements referred to in paragraph (1) are the following:

(A) Multiyear contracts and leases for the construction or purchase of property (including vessels and equipment) and services necessary to carry out this Act.

(B) Multiyear contracts for the lease of property (except vessels), including equipment, and services necessary to carry out this Act.

(b) The Under Secretary may make appropriate provision in each contract or lease agreement entered into under this section that in the event of termination of the contract or lease agreement before the expiration of the stated term, the United States shall be liable for a specified amount to the contractor or lease agreement party, which shall be a valid obligation of the United States. In the event of any such termination, the amount may be paid from—

(1) amounts originally appropriated for the performance of the contract or lease agreement;

(2) amounts then available from appropriations for procurement of the type of acquisition concerned, and not otherwise obligated; or

(3) amounts specifically appropriated for such payment.

(c) Except in case of emergency, all modernization, construction, conversion, and repair work performed after the date of the enactment of this section on vessels owned, leased, chartered, or operated by the National Oceanic and Atmospheric Administration shall be carried out in private shipyards in the United States, and no vessel shall be purchased, leased, chartered, or otherwise acquired by the National Oceanic and Atmospheric Administration after that date unless the vessel was constructed in those shipyards, as follows:

(1) All major components of the hull and superstructure of the vessel shall be fabricated in the United States.

(2) The vessel shall be assembled entirely in the United States.

(3) At least 50 percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure of the vessel, except for scientific equipment which cannot reasonably be purchased in the United States, shall be attributable to items procured in the United States.

(d) In this section—

(1) the term "lease" includes a lease with an option to purchase and the purchase of a vessel pursuant to that option;

(2) the term "multiyear" means more than one year, but not more than 10 years; and

(3) the term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

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33 U.S.C. 883*j*

§ 883[i.] *j.* Authorization of appropriations

There are hereby authorized to be appropriated such funds as may be necessary to acquire, construct, maintain, and operate ships, stations, equipment, and facilities and for such other expend-

itures, including personal services at the seat of government and elsewhere and including the erection of temporary observatory buildings and lease of sites therfor, as may be necessary for the conduct of the activities herein authorized.

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33 U.S.C. 883*k*

§ 883[j.] *k.* Ocean satellite data

The Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to in this subtitle as the "Administration") shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community.

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